

Article - Health Occupations

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§14–411.

(a) In this section, “record” means the proceedings, records, or files of the Board or a disciplinary panel.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board, a disciplinary panel, or any of its other investigatory bodies may not disclose any information contained in a record.

(c) Nothing in this section shall be construed to prevent or limit the disclosure of:

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 4–333 of the General Provisions Article;

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle; or

(3) Personal and other identifying information of a licensee, as required by the National Practitioner Data Bank for participation in the proactive disclosure service.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(i) The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

(ii) A disciplinary panel has issued an order as to a licensed physician on whom the information is requested; and

(iii) The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician; or

(2) The Secretary, the Office of Health Care Quality in the Department, the Maryland Health Care Commission, or the Health Services Cost Review Commission for the purpose of investigating quality or utilization of care in any entity regulated by the Office of Health Care Quality or the Health Services Cost Review Commission.

(e) On or before January 1, 2013, the Board, the Secretary, the Maryland Health Care Commission, and the Health Services Cost Review Commission jointly shall adopt regulations for the efficient and secure transfer, under subsection (d)(2) of this section, of any information in a record that may indicate that an investigation of an entity regulated by the Office of Health Care Quality, the Maryland Health Care Commission, or the Health Services Cost Review Commission may be appropriate.

(f) Subsection (d)(2) of this section may not be construed to alter the authority of the Secretary under § 1–203(a) of this article or § 2–106(c) of the Health – General Article.

(g) (1) The Board shall notify all hospitals, health maintenance organizations, or other health care facilities where a physician or an allied health professional regulated by the Board has privileges, has a provider contract with a health maintenance organization, or is employed of a complaint or report filed against that physician, if:

(i) The Board determines, in its discretion, that the hospital, health maintenance organization, or health care facility should be informed about the report or complaint;

(ii) The nature of the complaint suggests a reasonable possibility of an imminent threat to patient safety; or

(iii) The complaint or report was as a result of a claim filed in the Health Care Alternative Dispute Resolution Office and a certificate of a qualified expert is filed in accordance with § 3–2A–04(b)(1) of the Courts Article.

(2) The Board shall disclose any information pertaining to a physician's competency to practice medicine contained in record to a committee of a hospital, health maintenance organization, or other health care facility if:

(i) The committee is concerned with physician discipline and requests the information in writing; and

(ii) The Board has received a complaint or report pursuant to paragraph (1)(i) and (ii) of this subsection on the licensed physician on whom the information is requested.

(3) The Board shall, after formal action is taken pursuant to § 14–406 of this subtitle, notify those hospitals, health maintenance organizations, or health care facilities where the physician has privileges, has a provider contract with a health maintenance organization, or is employed of its formal action within 10 days after the action is taken and shall provide the hospital, health maintenance organization, or health care facility with periodic reports as to enforcement or monitoring of a formal disciplinary order against a physician within 10 days after receipt of those reports.

(h) On the request of a person who has made a complaint to the Board regarding a physician, the Board shall provide the person with information on the status of the complaint.

(i) Following the filing of charges or notice of initial denial of license application, the Board shall disclose the filing to the public on the Board's Web site.

(j) The Board may disclose any information contained in a record to a licensing or disciplinary authority of another state if:

(1) The licensing or disciplinary authority of another state that regulates licensed physicians in that state requests the information in writing; and

(2) The disclosure of any information is limited to the pendency of an allegation of a ground for disciplinary or other action by a disciplinary panel until:

(i) The disciplinary panel has passed an order under § 14–406 of this subtitle; or

(ii) A licensed physician on whom the information is requested authorizes a disclosure as to the facts of an allegation or the results of an investigation before the Board.

(k) The Board may disclose any information contained in a record to a person if:

(1) A licensed physician on whom any information is requested authorizes the person to receive the disclosure;

(2) The person requests the information in writing; and

(3) The authorization for the disclosure is in writing.

(l) The Board may disclose any information contained in a record to the State Medical Assistance Compliance Administration, the Secretary of the U.S. Department of Health and Human Services or the Secretary's designee, or any health occupational regulatory board if:

(1) (i) The State Medical Assistance Compliance Administration or any health occupational regulatory board requests the information in writing; or

(ii) The Secretary of the U.S. Department of Health and Human Services or the Secretary's designee is entitled to receive the information or have access to the information under 42 U.S.C. § 1396r-2;

(2) (i) A disciplinary panel has issued an order under § 14-406 of this subtitle; or

(ii) An allegation is pending before the Board or a disciplinary panel; and

(3) The Board determines that the requested information is necessary for the proper conduct of the business of that administration or board.

(m) If the Board or a disciplinary panel determines that the information contained in a record concerns possible criminal activity, the Board or the disciplinary panel shall disclose the information to a law enforcement or prosecutorial official.

(n) The Board may permit inspection of records for which inspection otherwise is not authorized by a person who is engaged in a research project if:

(1) The researcher submits to the executive director and the Board approves a written request that:

(i) Describes the purpose of the research project;

(ii) Describes the intent, if any, to publish the findings;

(iii) Describes the nature of the requested personal records;

(iv) Describes the safeguards that the researcher would take to protect the identity of the persons in interest; and

(v) States that persons in interest will not be contacted unless the executive director approves and monitors the contact;

(2) The executive director is satisfied that the proposed safeguards will prevent the disclosure of the identity of persons in interest; and

(3) The researcher makes an agreement with the executive director that:

(i) Defines the scope of the research project;

(ii) Sets out the safeguards for protecting the identity of the persons in interest; and

(iii) States that a breach of any condition of the agreement is a breach of contract.

(o) On the request of a person who has testified in a Board or Office of Administrative Hearings proceeding, the Board shall provide to the person who testified a copy of the portion of the transcript of that person's testimony.

(p) (1) The Board may publish a summary of any allegations of grounds for disciplinary or other action.

(2) A summary may not identify:

(i) Any person who makes an allegation to the Board or any of its investigatory bodies;

(ii) A licensed physician about whom an allegation is made; or

(iii) A witness in an investigation or a proceeding before the Board or any of its investigatory bodies.

(q) The Board shall disclose information in a record upon the request of the Governor, Secretary, or Legislative Auditor, in accordance with § 2-1223(a) of the State Government Article. However, the Governor, Secretary, or Auditor, or any of their employees may not disclose personally identifiable information from any of these records which are otherwise confidential by law.

(r) This section does not apply to:

(1) Any disclosure of a record by the Board to a disciplinary panel or any of its other investigatory bodies; or

(2) A licensee, certificate holder, or registration holder who has been charged under this title or a party to a proceeding before the Board or a disciplinary

panel who claims to be aggrieved by the decision of the Board or the disciplinary panel.

(s) If any information contained in any medical or hospital document or any other exhibit is otherwise open for disclosure under law, the use of that document or exhibit in any record of the Board, a disciplinary panel, or any of its other investigatory bodies does not prevent its disclosure in any other proceeding.

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